

1. 2nd 6-18-68

Bugging Cases Face Review

United Press International

The Supreme Court said yesterday it would examine the eavesdropping aspects of an espionage case and hear further arguments in another case that could set guidelines for court handling of illegally monitored material.

The court agreed to examine eavesdropping in the appeal of an American engineer and a Russian chauffeur convicted of espionage in Newark, N.J., in 1964—John William Butenko, 43, of Orange, N.J., and Igor A. Ivanov, 38, a New York City resident.

At the same time it said it would hear more arguments in a Denver case appealed by Felix A. Alderisio and Willie F. Alerman, who were convicted of conspiring to transmit threats against Robert Sunshine.

Disclosure to Defendants

In both cases—assuming there was electronic surveillance of Ivanov and Butenko—the court said it would consider whether the records should be subjected to a private inspection by the trial judge to determine the necessity of compelling the Government to disclose them to the defendants.

The court's findings would set guidelines for the handling of such evidence in trial courts.

The court also ruled 6 to 3 that conversations intercepted in violation of the Federal Communications Act may not be introduced as evidence in state criminal trials.

The majority's decision by Justice Potter Stewart said a 15-year-old decision to the contrary has been whittled away by later rulings.

"Under our Constitution no court, state or Federal, may serve as an accomplice in the willful transgression of the laws of the United States," laws by which "the judges in every state are bound. . . ." the opinion said.

Three Justices Dissent

Justices Hugo L. Black, Byron R. White and John M. Harlan dissented.

Orlando, Fla., police had arranged with the Winter Park, Fla., telephone company to install a telephone on the same party line with Clyde F. Lee, on whom they wished to eavesdrop. They placed a tape recorder on the telephone and wired it so that they could hear conversations without lifting the receiver.

Tapes of incoming calls by Glen D. Brecheen and Cecil S. Merritt were played before the jury, which convicted the trio under state lottery laws.

Lee was sentenced to six years in jail and the two others to four years each.